IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Nirmal Singh. Versus Bhoj Raj.

S.B. Criminal Misc. Petition No.985/2005 (DR.J.)

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Nirmal Singh. Versus Bhoj Raj.

S.B. Criminal Misc. Petition No. 368/2005

and

Nirmal Singh. Versus Bhoj Raj.

S.B. Criminal Misc. Petition No.367/2005

...

Date of Order: 21/08/2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. D.L.Rawla for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. M.K.Garg for the respondent.

BY THE COURT:

By these three criminal miscellaneous petitions under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 26-2-2005 passed by the Additional Sessions Judge, Sri Karanpur, Sri Ganganagar (for short, "the Revisional Court"

hereinafter), whereby the revision petition filed by the petitioner against the order dated 18-1-2005 passed by the Judicial Magistrate, Padampur,district Sri Ganganagar (for short, "the trial Court" hereinafter) was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by the trial Court as well as the Revisional Court.

The petitioner is facing trial in as many as seven cases, being criminal complaint cases No. 350/2003, 456/2003, 157/2004, 158/2004, 159/2004, 175/2004 and 246/2004. By an application under Section 219 of the Code filed before the trial Court, the petitioner sought a direction that he may be charged with and tried at one trial. The trial Court, by a well-reasoned order, dismissed the application filed by the petitioner. On revision, the Revisional Court did not find any error in the order of the trial Court and dismissed the revision petition. Hence these three criminal miscellaneous petitions.

Section 219 of the Code provides that when a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial, for any number of them not exceeding three. In the instant cases, as many as seven cases are pending against the petitioner of

different dates and years and, therefore, the case of the petitioner does not fall within the ambit of Section 219 of the Code.

Even considering the provision of Section 220 of the Code, in my view, the petitioner has no case. Section 220 of the Code is an enabling provision. The Hon'ble Supreme Court in Momindra Singh Vs. State of Punjab, (1998) 7 SCC 390, held that the Court may or may not try all the offences together in one trial. It cannot be said that by trying separately, the Designated Court committed any illegality.

In the circumstances, therefore, it cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of the Court. It is settled law that the powers under Section 482 of the Code are to be exercised sparingly, cautiously and in exceptional cases. The case in hand is not of that nature.

All the three criminal miscellaneous petitions are, therefore, dismissed. The stay petitions also stand dismissed.

(H.R. PANWAR), J.

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